SBCivil Writ Petition No.1912/2006

Milap Transport Road Lines & Ors.
v.
State of Rajasthan & Ors.

Date of Order :: 10th May, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Dinesh Mehta, for the petitioners.
Mr. Sangeet Lodha, for the respondents.

....

By orders impugned Anx.12 and 13 the Deputy Commissioner (Appeals), Commercial Taxes, Jodhpur transferred the appeals preferred by the petitioners No.2 and 3 giving challenge to the order dated 22.2.2006 passed by the Assistant Commercial Taxation Officer, Flying Squad, Alwar for their adjudication by the Deputy Commissioner (Appeals) Ist, Rajasthan, Jaipur. The Deputy Commissioner (Appeals), Commercial Taxes, Jodhpur held that the jurisdiction to adjudicate the appeals concerned lies with Deputy Commissioner (Appeals) Ist, Rajasthan, Jaipur and not with him.

The grievance of the petitioners is that the Deputy Commissioner (Appeals), Commercial Taxes, Jodhpur running contrary to the facts and law passed the orders dated 27.3.2006 (Anx.12 and 13) and transferred the appeals for their adjudication to the Deputy Commissioner (Appeals) Ist, Rajasthan, Jaipur.

It is contended by counsel for the petitioners that the goods seized by the respondent ACTO on 3.2.2006 are still lying with the check post and the stay applications preferred by them alongwith the appeals have not been disposed of till now.

Looking to all the facts and circumstances of the case the counsel for the parties are in agreement that a direction be issued to the Deputy Commissioner (Appeals) Ist, Rajasthan, Jaipur to decide the stay application filed by the petitioners alongwith appeals transferred for their adjudication by orders Anx.12 and 13 expeditiously.

To meet the ends of justice, I too consider it appropriate to direct the appellate authority to decide the stay application preferred by the petitioners at earliest as its further pendency may spoil the goods seized.

Accordingly, without entering into merits of the controversy involved in this writ petition the writ petition is disposed of with a direction to the parties to appear before the Deputy Commissioner (Appeals) Ist, Rajasthan, Jaipur on 15.5.2006. The Deputy Commissioner (Appeals) Ist, Rajasthan, Jaipur shall allow an opportunity of hearing to the parties and decide the stay applications within a period of

three days thereafter. The respondent Deputy Commissioner, Commercial Taxes, Jodhpur is directed to communicate this order to the Deputy Commissioner (Appeals) Ist, Rajasthan, Jaipur before 13.5.2006.

No order as to cost.

(GOVIND MATHUR),J.

kkm/ps.